

Date: 6/10/2020

Workorder On

Our File No: 89864-1-705337

Case Coordinator: LYDIA RODRIGUEZ

FURNITURE PROCUREMENT SERVICE, LLP D/B/A OFFICE
FURNITURE CONNECTION
VS
NATIONAL CONTAINER GROUP, LLC

Acct Rep: RAVEN GRANDBERRY

U.S. ENVIRONMENTAL PROTECTION AGENCY

HOURS OF CUSTODIAN AVAILABILITY: _____

ATTEN: LETICIA LANE - FOIA OFC

DATE TO BE PICKED UP: _____

1445 ROSS AVENUE

DALLAS, TX 75202

Phone: 2146657202

Subject Information
BUSINESS RECORDS

Morning
6-11-20

Contact for Pick Up: _____

Courier Requirements

Requested Service:

- ☐ Pick up records
- ☐ Verify completion of legal documents
- ☐ Notarize legal documents
- ☐ Service of Subpoena to Appear
- ☒ Hand service of request

Types of Records Requested:

- ☐ Billing
- ☐ Medical
- ☐ Radiology
- ☐ Legals Only
- ☐ Affidavit of No Records
- ☐ Affidavit of Destroyed Records
- ☐ Affidavit of Common Records

Special Requirements:

- ☐ Must Call Ahead
- ☐ Rush Request/Call AFLS if Unable to Complete
- ☐ Same Day Return Service Needed

Other Instructions:

FOR COURIER USE ONLY:

Date received: _____

Date(s) attempted: _____

Time(s) attempted: _____

Did the facility name match the one provided above? If not, what was it? _____

If unable to complete, please state reason why: _____

FOR HAND SERVICE - PLEASE PROVIDE A RETURN OF SERVICE - A DUPLICATE SUBPOENA IS PROVIDED FOR THIS PURPOSE

FOR PICK UP OF RECORDS - A DUPLICATE COPY OF THE LEGAL DOCUMENTS ARE ATTACHED. DO NOT LEAVE WITHOUT ALL DOCUMENTS HAVING BEEN COMPLETED



Dallas Records Division
325 N. St. Paul, Ste 1900
Dallas, TX 75201

Contact: **LYDIA RODRIGUEZ**

Direct: 469-917-1320

Email: lydia.rodriquez@lexitaslegal.com

Company: 800-497-7618

Fax: 800-311-8300

Our File No: 89864-1-705337

Request Date: 04/20/2020

Facility Phone: 2146657202

Facility Fax:

RECORDS NEEDED BY: 5/29/20

U.S. ENVIRONMENTAL PROTECTION AGENCY
ATTN: LETICIA LANE - FOIA OFC
1445 ROSS AVENUE
DALLAS, TX 75202

Directed to the Custodian of Records for U.S. ENVIRONMENTAL PROTECTION AGENCY:

This office has been retained to assist with the production of documents related to:

BUSINESS RECORDS, Social , Date of Birth

To minimize the amount of time required to comply with our request, please follow these instructions:

1. Review your active files, computer systems, backups, storage, and offsite storage locations to determine if any information pertaining to the above named subject is available for the following:

ANY AND ALL RECORDS FROM 1-1-2016 THROUGH 1-1-2020 PERTAINING TO NATIONAL CONTAINER GROUP LOCATED AT 13131 ALMEDA ROAD, HOUSTON, TEXAS 77045, INCLUDING FACILITY REPORTS, SUMMARY REPORTS AND COMPLIANCE REPORTS.

2. Complete the following section and fax this cover letter to my attention with an **invoice that breaks down your fees** per state guidelines. We request records are provided in digital format and legal documents with original signatures. We are unable to remit payment without an invoice and without prior approval of fees.

Records are confirmed and the fee for production is \$_____ for _____ pages.

Do you accept payment by Credit Card? ____ Yes ____ No

To whom should we remit payment? _____

A thorough search has been conducted and no records were found (We will contact you to verify this information and forward you a separate document to complete).

Do you have access to a notary ____ Yes ____ No ?

3. Upon receipt of payment complete any included legal documents before a Notary Public and **return the originals** to our office. We will make every attempt to minimize the disruption this request causes your office and you can assist in this regard by responding in a timely manner.

Please contact me at 469-917-1320 or by email at lydia.rodriquez@lexitaslegal.com if you have any questions or if you will not be able to complete this request by the date needed as indicated above.

Sincerely,

 **LYDIA RODRIGUEZ**
Case Coordinator

**PLEASE NOTE: On May 9, 2017 our name has changed from America First to Lexitas.
Same great people, same outstanding service.**

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FURNITURE PROCUREMENT SERVICE,
LLP D/B/A OFFICE FURNITURE CONNECTION
VS
NATIONAL CONTAINER GROUP, LLC

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CIVIL ACTION NO. 4:19-CV-03290

CONSOLIDATED WITH:

TEXTILE REAL ESTATE INVESTMENTS,
LLC; TEXTILE RECYCLER, INC.
VS
NATIONAL CONTAINER GROUP, LLC

NOTICE OF INTENTION TO TAKE DEPOSITION BY WRITTEN QUESTIONS

Please take notice that (14) days from the service of a copy hereof with attached questions, a deposition by written questions will be taken of the custodian of records for **U.S. ENVIRONMENTAL PROTECTION AGENCY** at the office of the summoned witness or at another agreed upon time and/or place before a Notary Public; an Officer of the State of Texas; a notary agent of Lexitas, 325 N. Saint Paul Street, Suite 1900, Dallas, Texas 75201; or their designated agent.

The deposition with attached questions may be used in evidence upon the trial of the above styled and numbered cause pending in the above named court. Notice is further given that request is here made as authorized under the Rule 31 and Rule 45, Federal Rules of Civil Procedure, to the Officer authorized to issue a SUBPOENA DUCES TECUM and cause it to be served on the witness to produce:

ANY AND ALL RECORDS FROM 1-1-2016 THROUGH 1-1-2020 PERTAINING TO NATIONAL CONTAINER GROUP LOCATED AT 13131 ALMEDA ROAD, HOUSTON, TEXAS 77045, INCLUDING FACILITY REPORTS, SUMMARY REPORTS AND COMPLIANCE REPORTS.

and turn all such records over to the Officer authorized to take this deposition for inspection and photocopying the same may be made by him and attached to said deposition.

ZANDRA E. FOLEY
THOMPSON, COE, COUSINS & IRONS (HOUSTON)
State Bar No. 24032085
Attorney for Defendant

ONE RIVERWAY
SUITE 1400
HOUSTON TX, 77056
Phone: 7134038210 / Fax: 7134038299

/S/ ZANDRA E. FOLEY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FURNITURE PROCUREMENT SERVICE,
LLP D/B/A OFFICE FURNITURE CONNECTION
VS
NATIONAL CONTAINER GROUP, LLC

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CIVIL ACTION NO. 4:19-CV-03290

CONSOLIDATED WITH:

TEXTILE REAL ESTATE INVESTMENTS,
LLC; TEXTILE RECYCLER, INC.
VS
NATIONAL CONTAINER GROUP, LLC

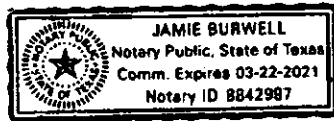
NOTICE OF INTENTION TO TAKE DEPOSITION BY WRITTEN QUESTIONS

I certify that a true and exact copy of the foregoing Notice of Intention To Take Deposition by Written Questions was provided to the respective parties or attorneys of record, by certified mail, postage prepaid, hand delivered, or by telephonic document transfer.

April 29th, 2020

By: *Ray Garrison*

Sworn to and subscribed before me on this the 29th day of April, 2020.



Jamie Burwell
Notary Public in and for
The State of TX

UNITED STATES DISTRICT COURT

for the

SOUTHERN

DISTRICT OF

TEXAS

FURNITURE PROCUREMENT SERVICE, LLP D/B/A OFFICE
FURNITURE CONNECTION
VS
NATIONAL CONTAINER GROUP, LLC

Civil Action No. 4:19-CV-03290

V.

TEXTILE REAL ESTATE INVESTMENTS, LLC; TEXTILE
RECYCLER, INC.
VS
NATIONAL CONTAINER GROUP, LLC

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF
PREMISES IN A CIVIL ACTION

TO: CUSTODIAN OF RECORD FOR: U.S. ENVIRONMENTAL PROTECTION AGENCY, ATTN: LETICIA LANE - FOIA OFC,
1445 ROSS AVENUE, DALLAS, TX 75202

☒ **Production:** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

ANY AND ALL RECORDS FROM 1-1-2016 THROUGH 1-1-2020 PERTAINING TO NATIONAL CONTAINER GROUP LOCATED AT 13131 ALMEDA ROAD,
HOUSTON, TEXAS 77045, INCLUDING FACILITY REPORTS, SUMMARY REPORTS AND COMPLIANCE REPORTS.

PLACE:

THE OFFICE OF THE SUMMONED WITNESS

THE FORTHWITH DAY OF INSTANTER

☐ **Inspection of Premises:** YOU ARE COMMANDED to permit entry onto the designated premises, land or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

PLACE:

DATE AND TIME:

The following provisions of Fed. R. Civ. P. 45 are attached - Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date:

CLERK OF COURT

OR

/S/ ZANDRA E. FOLEY

Signature of Clerk or Deputy Clerk

Attorney's Signature

The name, address, e-mail address and telephone number of the attorney representing Defendant, who issues or requests this subpoena are:

ZANDRA FOLEY
THOMPSON, COE, COUSINS & IRONS (HOUSTON)
PHONE: 7134038210

ONE RIVERWAY
SUITE 1400
HOUSTON, TX, 77056

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a) (4).

Civil Action No. {CAUSE_NO}

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed.R.Civ.P.45.)

I received this subpoena for U.S. ENVIRONMENTAL PROTECTION AGENCY on (date) _____.

I served the subpoena by delivering a copy to the named person as follows:

_____ on (date) _____.

I returned the subpoena unexecuted because:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law in the amount of \$_____.

My fees are \$_____ for travel and \$_____ for services, for a total of \$_____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 2/14)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified.

If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because

of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FURNITURE PROCUREMENT SERVICE,
LLP D/B/A OFFICE FURNITURE CONNECTION
VS
NATIONAL CONTAINER GROUP, LLC

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CIVIL ACTION NO. 4:19-CV-03290

CONSOLIDATED WITH:

TEXTILE REAL ESTATE INVESTMENTS,
LLC; TEXTILE RECYCLER, INC.
VS
NATIONAL CONTAINER GROUP, LLC

DEPOSITION BY WRITTEN QUESTIONS PROPOUNDED TO THE WITNESS,
CUSTODIAN OF RECORDS FOR:
U.S. ENVIRONMENTAL PROTECTION AGENCY

1. Please state your full name, business address and occupation.

ANSWER: _____

2. Did you receive a subpoena to appear and bring with you for inspection and photocopying:

ANY AND ALL RECORDS FROM 1-1-2016 THROUGH 1-1-2020 PERTAINING TO NATIONAL CONTAINER
GROUP LOCATED AT 13131 ALMEDA ROAD, HOUSTON, TEXAS 77045, INCLUDING FACILITY REPORTS,
SUMMARY REPORTS AND COMPLIANCE REPORTS.

ANSWER: _____

3. Are you able to identify these records as the original or true and correct photostatic copies of the originals?

ANSWER: _____

4. Were these records made and kept in the regular course of your business? (Business means any kind of regularly organized activity, whether conducted for profit or not.)

ANSWER: _____

5. In the regular course of your business, did the person who signed or otherwise prepared these records either have personal knowledge of the entries on these records or obtain the information to make such records from sources who have such personal knowledge?

ANSWER: _____

6. Are these records under your care, supervision, direction, custody or subject to your control?

ANSWER: _____

7. Were these records made at or near the time of the act, event, opinion, condition or diagnosis recorded on these records or reasonably soon thereafter?

ANSWER: _____

8. Were these records kept as described above?

ANSWER: _____

9. Please hand all of such records as outlined in the subpoena duces tecum to the Officer taking your deposition for inspection and photocopying. (This will be at no expense to you, and the Officer will return the original of your records to you after they have been both inspected and copied.) Have you complied? If not, why not?

ANSWER: _____

WITNESS, CUSTODIAN OF RECORDS

I, _____, a Notary Public in and for the State of TX do hereby certify that the foregoing answers of the witness were made by the said witness and sworn to and subscribed before me. The records attached hereto are exact duplicates of the original records.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, _____

Notary Public in and for
The State of TX

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FURNITURE PROCUREMENT SERVICE,
LLP D/B/A OFFICE FURNITURE CONNECTION
VS
NATIONAL CONTAINER GROUP, LLC

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CIVIL ACTION NO. 4:19-CV-03290

CONSOLIDATED WITH:

TEXTILE REAL ESTATE INVESTMENTS,
LLC; TEXTILE RECYCLER, INC.
VS
NATIONAL CONTAINER GROUP, LLC

AFFIDAVIT
U.S. ENVIRONMENTAL PROTECTION AGENCY

Records Pertaining To: **BUSINESS RECORDS**

Before me, the undersigned authority, personally appeared, _____, who,
being by me duly sworn, deposed as follows:

I, the undersigned, am over 18 years of age, of sound mind, capable of making this affidavit, and personally
acquainted with the facts herein stated:

I am the Custodian of Records for: **U.S. ENVIRONMENTAL PROTECTION AGENCY.**

Attached hereto are _____ pages of records from U.S. ENVIRONMENTAL PROTECTION AGENCY.
These said pages of records are kept in the regular course of business, and it was the regular course of business
of U.S. ENVIRONMENTAL PROTECTION AGENCY for an employee or representative of U.S.
ENVIRONMENTAL PROTECTION AGENCY with knowledge of the act, event, condition, opinion or diagnosis
recorded to make the record or to transmit information thereof to be included in such record; and the record was
made at or near the time or reasonably soon thereafter.

The records attached hereto are the original or exact duplicates of the original.

AFFIANT

SWORN TO AND SUBSCRIBED before me on the _____ day of _____, 20____.

Notary Public in and for
The State of TX